

The Mayor and Council of Hurlock

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MAYOR
JOHN H. AVERY
CLERK / TREASURER

COUNCIL MEMBERS
CHRISTOPHER J. ADAMS
CHARLES T. CEPHAS, SR.
PARKER J. DURHAM
GARY L. HENRY
MICHAEL D. NORDSTROM

MINUTES OPEN SESSION MEETING MAY 28, 2013 6:00 P.M.

Mayor Spratt called the meeting to order. Following the Pledge of Allegiance, Reverend Paul Bovankovich said the opening prayer and sympathy was expressed over the passing of Rev. McGrath last Wednesday night. The roll call was then taken. Those in attendance were: Councilmembers Durham, Cephas, Nordstrom, Henry, Mayor Spratt, Attorney Robert Merriken, and Clerk Avery. Councilman Adams was absent.

The Agenda was approved with a motion from Councilman Durham, seconded by Councilman Nordstrom and passed with a vote of 3-0 and Councilman Cephas abstaining.

The Minutes of the Work Session on May 13, 2013 were approved, with Councilman Durham making the Motion, Councilman Henry seconding the Motion, and all in favor, with a vote of 4-0 and none opposed. The minutes of the Open Session Meeting on May 13, 2013 were approved with a Motion from Councilman Durham and a second from Councilman Nordstrom. With no discussion, the Motion was approved with a vote of 3-1. Councilman Cephas opposed.

Mayor's Report - A problem occurred with the Andolfatto house last week; the Town Office was notified that the chimney was leaning at a severe angle and was in danger of falling. Clerk Avery notified the fire department and police department. With the use of Jeff Fletcher's wrecker the chimney was pulled over in a controlled manner. The Town received good news regarding the Medical Center. Nanticoke Memorial is very interested coming to Hurlock and will be visiting the facility soon. Dr. Fadden is very excited and willing to cooperate with them. Senator Colburn telephoned Choptank Community Health Systems and was informed they were not interested in any further communications with the Town.

County Councilman Rick Price Report - The County Council met last week to have the 3rd and final hearing on the budget for fiscal year 2013-2014. The Budget of 64 million

dollars was voted on and adopted with no tax increase. Chesapeake College located on Race Street in Cambridge approached the County Council and advised they were currently having problems with their HVAC. They are working on that and also stated they are not leaving the County, but they are looking to relocate due to space issues. The County executed the agreement with Motorola for upgrading the pager systems for the fire companies. The firemen will hear calls going out and transmissions between each other as they are going on calls. In Annapolis last week, the State recognized several County EMS Providers with awards for the handling of a multi-alarm fire in Cambridge during the past winter. Scott Wheatley from the North Dorchester area of the County was recognized as EMS Provider of the Year for the whole State of Maryland.

Department Reports –

Police Chief Les Hutton informed the Council he received a letter from the District Court of MD in Cambridge commending Officer John Beasley for his professionalism in controlling an incident in the court room in which an individual there for sentencing became visibly nervous, anxious and upset got into an altercation with the bailiffs.

No representative from the Hurlock Fire Company.

Old Business –

Waterland Fisheries – Clerk Avery had a letter identifying the questions Dr. Anderson was requesting from the Town. A second letter came in Friday afternoon. Copies of this letter were enclosed for the Councilmembers, however there was not adequate time to get it to the Council. Clerk Avery stated he e-mailed a copy of the letter to the Councilmembers on this date to review. Dr. Anderson is asking to reclassify Waterland Fisheries as an Industrial User, instead of a Significant Industrial User. He feels the Significant Industrial sewer fees that have accumulated should be canceled, also that Waterland Fisheries would not seek repayment of the higher paid fees. He further requests reduction of the burdensome and expensive water testing requirements that accompany a significant industrial user, and reduce Waterland Fisheries property taxes. A representative from Davis, Bowen and Friedel, Rob Dumma, was in attendance to answer questions and qualify some of the issues. The Town has three sewer rates; residential, commercial, and industrial. To change from Significant Industrial User to Industrial User does not change sewer rates. In regards to reducing the testing requirements, the testing was reduced to once weekly, it would be possible to reduce that to bi-weekly with the caveat that if nutrient discharge levels were over the permit levels it may go back to weekly or twice weekly, if necessary. The issue of reducing property taxes is up to the Mayor & Council. Clerk Avery asked Mr. Dumma if he could expand on the issues of the Industrial User. The Significant Industrial User is part of MDE/EPA classification, not a Town classification. The Town's MDE discharge permit requires any user that discharges more than 25,000 gpd be considered as a Significant Industrial User. Waterland Fisheries is producing approximately 70,000 gallons per day. That is the average for the past year and a half. Waterland Fisheries will always be a Significant Industrial User unless they can reduce that discharge. Councilman Cephas questioned

whether the Council has the ability to make an amendment to benefit what is in the best interest of a small minority business and to vote to reduce the rate. He feels the Town is putting a noose around a small business. Councilman Cephas feels he cannot, in good faith, vote tonight, especially in the absence of Councilman Adams. Councilman Cephas made a Motion to postpone the decision until there is a full Council present. Mayor Spratt stated that Dr. Anderson requested an answer by tomorrow (May 29th). Councilman Cephas did not feel an answer would be possible by tomorrow. Councilman Nordstrom asked if the three major businesses in town treat their waste the same. Clerk Avery explained that Amick and B&G pretreat their waste before it comes to the plant. Councilman Cephas feels that the flow that comes from these plants, even being pretreated, produces more pollutants than what Dr. Anderson has. Mr. Dumma explained the larger businesses pretreat their waste to get it to a level that is more acceptable, Dr. Anderson does not treat his waste water. Councilman Durham stated that the State has set rules & regulations for the discharge of all businesses in the State of Maryland. The Town does not have the ability to over ride that, but this is a company that is producing 3 times the amount of waste established by the State. Councilman Durham stated he doesn't see how the Town of Hurlock can supersede what is already 3 times in excess of guidelines set by the State of Maryland. Councilman Durham further stated that request #1 is a non-issue, #2 Since the rate is the same for Significant Industrial User or Industrial User there was no overcharging, #3 is the testing regulations. If there is an industry in Town that is in violation at least once a month how could you, in good faith, require them to be tested less, #4 is asking for a waiver on the property tax. There has not been a waiver issued to him in the past, although he agreed that would be a discussion point. Mayor Spratt stated a waiver was requested four years ago, but it was not granted. Councilman Cephas had issues with numbers 1, 2, & 3. He stated these were granted for Allen Foods. A considerable amount of discussion followed by Councilman Cephas. Clerk Avery explained he tried to set up a meeting between Dr. Anderson and the Department of Business and Economic Development from the State and Dorchester County to help him. As it turned out the State has done all they can do. The Mayor explained the Town had been trying to work with Dr. Anderson approximately one year ago trying to get a pre-treatment plant placed there. Councilman Cephas asked what was done to assist Dr. Anderson. Clerk Avery answered when the initial tests, called Grab Test were done; they showed the nutrient levels were exceedingly high. It was thought at that time he would need a pre-treatment facility. He was required to do composite sampling, which takes a samples over a 24 hour period instead of a Grab one time during the day, in which they could have taken when they were flushing tanks and had gotten a very high nutrient level count. The composite averages it out over a 24-hour period. It was not put in until a year and a half later. Once that was installed, the levels of the nutrients were more in line with what the permits require. He is not required at this time to put in a pre-treatment facility, because the nutrient levels of the discharge are within range of where they should be. Mr. Dumma explained that at this point there are a few violations once a month as opposed to every sample in the past that violated beyond levels ever seen before. Mayor Spratt asked is it more expensive for the Town WWTP if the businesses have not treated the wastewater properly. Mr. Dumma responded it is more expensive to treat if the concentrations of pollutants are higher. Councilman Durham asked if Waterland discharge levels are higher than any of their other clients.

Mr. Dumma responded yes. Councilman Cephas asked for Mr. Dumma's recommendation to Waterland Fisheries. Mr. Dumma suggested Waterland install a small pre-treatment system to polish their wastewater flow; to get it within legal limits, then polish the wastewater to get it to the level the Town needs to see to avoid any problems with the pre-treatment program. Councilman Cephas asked to review flow charts with a full Council. He stated there are several factors the Council needs to seriously look at. He further recommended talking to Rural Development to try to keep businesses in Town. Many questions were asked and much discussion ensued. Councilman Cephas asked to table this issue. Councilman Durham said since Dr. Anderson asked for a response by tomorrow, he could not see how Items 1, 2, and 3 can be addressed any better. They are State of Maryland regulation issues. He is open for discussion on Item #4.

Attorney Merriken advised that Councilman Cephas has a Motion on the floor to table all discussion. Councilman Henry seconded the Motion, with votes by Durham – Nay, Cephas – Aye, Nordstrom – Nay, and Henry – Aye. Motion died with a vote of 2-2.

Councilman Durham made a Motion that there be no action on Items 1,2, & 3, of the letter from Waterland Fisheries and to reconvene to discuss Item #4 at a later date. Councilman Nordstrom seconded the Motion. Councilman Durham stated the reason for the Motion is because Waterland Fisheries is an Industrial User by the State of Maryland and a Significant Industrial User 3 times the limit of what is classified as a Significant Industrial User. The discharges from his company are governed by State of Maryland Regulations and have to be monitored as such. It is not in the Town's best interest to supersede. He feels that the Council should consider the tax abatement. Councilman Nordstrom seconded the Motion. Discussion ensued.

Mr. Merriken reiterated that the Motion is to take no action on Items 1, 2, & 3, then table #4 for further consideration. Councilman Cephas protested that Councilman Adams is not present and there should be a full Council. Mayor Spratt called for a vote. Henry – Aye, Nordstrom – Aye, Durham – Aye and Cephas – Nay. The Motion passed with a vote of 3-1.

Fiscal Year 2013-2014 Budget – The Mayor asked if anyone had questions for Clerk Avery regarding the Budget. Councilman Cephas addressed Attorney Merriken. He asked for an explanation concerning Section 703 of the Town Charter Budget Adoption and if the format of this Budget is in violation of Section 703 of the Charter. The Charter states the Budget shall be prepared and adopted in the form of a resolution. Attorney Merriken replied that the Budget is not being adopted on this date, but agreed that the Budget does need to be prepared and adopted in the form of a resolution. Mr. Merriken stated he has had discussions with Mr. Avery about the need to for the Mayor to prepare a resolution for the budget and he needs certain information to do that. It was agreed that if the information is forwarded to him, the resolution could be prepared to present at the next meeting. Councilman Cephas addressed Mr. Avery regarding the differential in this year's Constant Yield Tax Rate and what would it be if there were no increases. Mr. Avery replied \$100,000.00. Councilman Cephas asked why the Town

could not use contingency money instead of raising the threshold for the citizens of Hurlock. Mr. Merriken advised that would be a decision the Council would have to make. Councilman Durham stated that, in understanding the Constant Yield Tax Rate, the property value assessments in the Town of Hurlock will drop as the State has decided. Since the property values have gone down, the tax multiplier has to be this new value to produce the same amount of revenue. There was more discussion, but no actual discussion on line items in the budget. Mayor Spratt advised the budget would be voted on at the next Council meeting.

Public Works Coordinator –At the last meeting, it was requested that information on Alan Plutschak's application be sent to Councilmembers. Mayor Spratt stated she had not heard back from anyone until tonight just before the meeting. Questions were answered in the interviews with the applicants with the Public Works Coordinator. Councilman Durham felt that, after the application and interview process, this particular candidate has been recommended and brought to them for approval and there is a need to get someone hired. Councilman Cephas feels there was at least one candidate that was treated disproportionately to the other candidates. Also in regards to education and experience, in his opinion, that candidate is superior to the candidate chosen. Councilman Cephas further stated he feels this interview process was wrong. Councilman Henry questioned Mr. Merriken about issues with the interview process, and in his opinion, was the interview done according to law. Mr. Merriken was not involved in the interview process, itself, but as far as the hiring of an applicant, if they are interviewed and information is gathered, the Mayor decides who she wants to appoint, then the Council votes on it. The Mayor stated the consensus of herself, Councilman Nordstrom, Clerk John Avery, and Elmer Dyes was unanimous for the hiring of Mr. Plutschak. Councilman Cephas feels the interview he sat in on was not done properly and that all interviews should be redone. Councilman Nordstrom made a Motion that the Council approve the hiring of Alan Plutschak as Public Works Coordinator. Councilman Durham stated if Councilman Cephas has procedural issues that he feels have been done in violation, they need to adjourn to closed session to discuss what these issues are. Councilman Nordstrom, at that time withdrew his Motion. Mayor Spratt asked for a Motion to move to Executive Session. Councilman Cephas opposed on the premise that Councilman Adams was not present and needs to be involved in the decision. Councilman Durham made the Motion to approve the hiring of Alan Plutschak with the prejudice that Councilman Cephas is refusing to provide any additional information given the opportunity. Councilman Cephas made the Motion to schedule an Executive Session in order to examine legal issues in two weeks. Councilman Nordstrom wanted to go on record stating he sat in on the interviews. He feels there was nothing in the interview process even close to being illegal. He further feels everything was performed, as it should have been. Councilman Durham asked Mr. Merriken if he could, in private, speak with Councilman Cephas to hear what he feels has been done wrong. Mr. Merriken agreed that would be possible. A ten-minute recess was called at 7:44 p.m. The meeting reconvened at 7:55 p.m. Mr. Merriken advised that after speaking in private with Councilman Cephas, in his opinion, there was not a legal problem with the hiring process. The Mayor was able to contact Councilman Adams during the recess. Mr. Adams advised he was on his way from Cambridge. Councilman Durham made a Motion

to modify the Agenda to move Item-C to when ever Councilman Adams arrives.

New Business –

Library Heat Pump – Mayor Spratt asked Clerk Avery to address this issue. Mr. Avery advised that he had sent Councilmembers an e-mail advising them of problem with the heat pump at the library. Over the last 4 weeks, it has been worked on 5 or 6 times. The repairs would last only 1 or 2 days each time. Based on that, another company was contacted on a Thursday, for a second opinion. The company arrived on Friday, they reset a relay and the pump started and lasted approximately 1 hour. A full assessment was completed by this same company on the following Monday and found multiple leaks in the evaporator coil and also problems with pressures in the system. Not knowing how long the repairs would last, Clerk Avery asked for estimates twice from the first company for costs in replacement of coil and replacement of the unit. A proposal was never received from the first company. The second company submitted a proposal the next day. A third company was also contacted and submitted a proposal. The proposals received were from First National HVAC, to replace the unit with a York 10 ton complete system with a cost of \$11,750.00. The second company, Comfort Plus, also recommended a York 10 ton system at \$14,107.00 or a Carrier 10 ton unit at \$13,537.00. The third proposal was from Webster Refrigeration for a Carrier unit with a total cost of \$16,850.00. The library has the proposals and County funds are paying for the costs. Clerk Avery is asking, because it is a Town building, for the Council to approve replacement of the heat pump for the Hurlock Library.

Councilman Cephas made a Motion to approve the replacement of the heat pump, with Councilman Nordstrom seconding the Motion. There was no discussion and the Motion passed with a vote of 4-0. No one opposed.

Public Comment – Councilman Cephas talked about an issue from the last Council meeting regarding fliers that had been distributed and contained personal derogatory remarks about certain people. Councilman Cephas wished to point out that comments should pertain to Town issues and not personal.

Cederick Turner announced that on June 15th, Town citizens would be doing a Juneteenth program at the Prospect Heights playground. The hours will be 9 – 5. Juneteenth began as Black Independence Day in 1865.

At this time, Councilman Adams arrived, so the meeting referred back to Item 10-C. The Mayor informed Mr. Adams that Councilman Cephas wanted him present for the discussion of Alan Plutschak, applicant for Pubic Works Coordinator. Councilman Adams asked who Alan Plutschak was. The Mayor advised that an e-mail was sent to Councilmembers with all application information regarding Mr. Plutschak. Councilman Adams said that he did not receive said e-mail. Councilman Durham asked Mr. Merriken to restate what transpired. Mr. Merriken told of Councilman Cephas' concern with regards to the interview process. Mr. Merriken further stated that, in his opinion, the Town does not have exposure to a lawsuit from this candidate. Councilman Durham,

based on the opinion of the Town attorney, made a Motion to accept the recommendation of Mr. Plutschak as Public Works Coordinator. Councilman Nordstrom seconded the Motion. Councilman Cephas stated he sent an e-mail to the Mayor prior to this night's meeting and asked for answers to his questions. One of the questions asked was who would Mr. Plutschak be reporting to and the answer to that is he would report to the Mayor as a department head, working with Elmer Dyes. A background check was performed. Councilman Cephas advised the Mayor she did not have to answer any further questions. He said he wanted to go on record that there should be a proper format for interviews. Councilman Adams stated if the other Councilmembers are comfortable with information that was sent, he was comfortable with it.

With a Motion on the floor, a vote was taken; Councilman Durham – Aye; Councilman Cephas – Nay; Councilman Nordstrom – Aye; Councilman Adams – abstained; Councilman Henry – Aye. The Motion passed with a vote of 3-1 and 1 abstention.

There was no further public comment.

Councilman Durham made a Motion to adjourn the meeting, with a second from Councilman Henry, and all in favor the meeting was adjourned.

Respectively submitted,

Approved: Mayor Spratt:

John Avery
Clerk/Treasurer

Councilmembers:

MOTIONS AND VOTES BY COUNCILMEMBERS

OPEN SESSION MEETING MAY 28, 2013

MOTION to approve Agenda - Motion by Councilman Durham, seconded by Councilman Nordstrom, and passed with a vote of 3-0. Councilman Cephas abstained.

MOTION to approve Minutes from Work Session on May 13, 2013 – Motion to approve made by Councilman Durham, seconded by Councilman Henry, and without discussion, passed with a vote of 4-0 and no one opposed.

MOTION to approve Minutes from Open Session on May 13, 2013 – Motion to approve made by Councilman Durham, seconded by Councilman Nordstrom, without discussion, the Motion passed with a vote of 3-1. Councilman Cephas was opposed.

MOTION by Councilman Cephas to postpone decision regarding Waterland Fisheries until a full Council is present. Councilman Henry seconded the Motion. The vote was as follows: Councilman Durham – Nay, Councilman Cephas – Aye, Councilman Nordstrom – Nay, and Councilman Henry – Aye. The Motion died with a vote of 2-2.

MOTION by Councilman Durham that there be no action taken on Items 1, 2, & 3 in the letter from Waterland Fisheries and to reconvene to discuss Item #4 at a later date. Councilman Nordstrom seconded the Motion. There was discussion. The vote was as follows: Councilman Henry – Aye, Councilman Nordstrom – Aye, Councilman Durham – Aye, and Councilman Cephas – Nay. The Motion passed with a vote of 3-1. Councilman Cephas opposed the vote.

MOTION by Councilman Nordstrom that the Council approve the hiring of Alan Plutschak as Public Works Coordinator. There was considerable discussion. Councilman Cephas felt there were issues in violation and needed to be discussed in closed session. Councilman Nordstrom withdrew his Motion at that time.

MOTION by Councilman Durham to approve the hiring of Alan Plutschak with the prejudice that Councilman Cephas is refusing to provide any additional information given the opportunity. There was no second.

MOTION by Councilman Cephas to schedule an Executive Session to examine legal issues in two weeks. There was no second.

MOTION by Councilman Durham to modify the Agenda to move Item-C to whenever Councilman Adams arrives at the meeting.

MOTION by Councilman Cephas to approve the replacement of the heat pump in the Hurlock Library, seconded by Councilman Nordstrom. There was no discussion and the Motion passed with a vote of 4-0.

MOTION by Councilman Durham, based on the opinion of the Town attorney, to accept the recommendation of Mr. Plutschak as Public Works Coordinator. Councilman Nordstrom seconded the motion. There was discussion. The vote is as follows: Councilman Durham – Aye, Councilman Cephas – Nay, Councilman Nordstrom – Aye, Councilman Adams – abstained, and Councilman Henry – Aye. The Motion passed with a vote of 3-1. There was 1 abstention.

MOTION by Councilman Durham to adjourn the meeting, seconded by Councilman Nordstrom with a vote of 5-0. No one opposed.